

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:10cv230

EUGENE ALLEN BRADLEY,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
BAXTER HEALTHCARE)	
CORPORATION and PHARMACIA &)	
UPJOHN COMPANY, INC.,)	
)	
Defendants.)	
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THIS MATTER is before the Court on the following motions:

- (1) Defendant Baxter Health Corporation's Motion for Summary Judgment [Doc. 38];
- (2) Defendant Pharmacia & Upjohn Company LLC's Motion for Summary Judgment [Doc. 40];
- (3) Plaintiff's Motion for Extension of Time to Respond to Defendant Baxter Healthcare Corporation's Motion for Summary Judgment [Doc. 44];
- (4) Plaintiff's Motion for Voluntary Dismissal [Doc. 45]; and
- (5) Plaintiff's Motion for Extension of Time to Respond to Defendant Pharmacia & Upjohn Company LLC's Motion for Summary Judgment [Doc. 47].

Also before the Court is Magistrate Judge's Memorandum and Recommendation [Doc. 62] regarding the disposition of Plaintiff's Motion for Voluntary Dismissal.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider Plaintiff's Motion for Voluntary Dismissal and to submit recommendations for its disposition.

On September 6, 2011, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 62] containing proposed conclusions of law in support of a recommendation regarding the Plaintiff's Motion. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

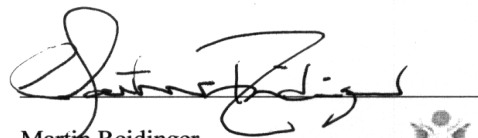
After a careful review of the Magistrate Judge's Recommendation [Doc. 62], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation that Plaintiff's Motion for Voluntary Dismissal be granted, on the condition that the Plaintiff pay all taxable costs incurred by Defendants in defending this action.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Memorandum and Recommendation [Doc. 62] is **ACCEPTED**; Plaintiff's Motion for Voluntary Dismissal [Doc. 45] is **GRANTED**; and this action shall be **DISMISSED WITHOUT PREJUDICE** upon payment by Plaintiff of all taxable costs incurred by Defendants in defending this action.

IT IS FURTHER ORDERED that Defendant Baxter Health Corporation's Motion for Summary Judgment [Doc. 38]; Defendant Pharmacia & Upjohn Company LLC's Motion for Summary Judgment [Doc. 40]; Plaintiff's Motion for Extension of Time to Respond to Defendant Baxter Healthcare Corporation's Motion for Summary Judgment [Doc. 44]; and Plaintiff's Motion for Extension of Time to Respond to Defendant Pharmacia & Upjohn Company LLC's Motion for Summary Judgment [Doc. 47] are **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed: September 30, 2011


Martin Reidinger
United States District Judge

